GOVERNMENT OF INDIA
FINANCE
LOK SABHA

STARRED QUESTION NO:444
ANSWERED ON:25.08.2006
TAX LIABILITIES OF FOREIGN JOINT PARTNERS
Rao Shri Kavuru Samba Siva

Will the Minister of FINANCE be pleased to state:

(a) the number of foreign companies and corporates with foreign joint venture partners operating with headquarters in the country;

(b) the volume of money transactions between the parent between the parent companies abroad and their subsidiaries/partners here;

(c) the mechanism used by companies based in India to evade tax liabilities;

(d) whether the Government proposes to take effective steps to check the number and volume of transactions and to determine their tax liabilities and for collecting the same;

(e) if so, the details thereof; and

(f) if not, the reasons therefor?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. CHIDAMBARAM)

(a),(b),(c),(d),(e) and (f): A Statement is laid on the Table of the House.

Statement refereed to in reply to parts (a) to(f) Lok Sabha Starred Question No.444 for answer on 25.08.06

(a) Reserve Bank of India has permitted 601 companies incorporated outside India to establish Branch Office in India and 5794 companies incorporated outside India to open Liaison Office in India as on January 31, 2005.

(b) The data reporting system does not generate the information required. However, Foreign Direct Investment inflows for the period 2003-04 to 2005-06 is Rs.53,868 crore.

(c) The mechanism used by companies based in India to evade tax liabilities, if any, may depend upon the nature of business and tipe o f transaction and it may vary from case to case. Some of the companies abroad or pay inflated prices fro purchase of goods/services to group companies abroad in order to avoid tax.

(d)& (e) The Government of India has enacted Transfer Pricing Legislation by Finance Act, 2001, with effect from Assessment Year 2002-03. The provisions relating to Transfer Pricing are contained in Sections 92 to 92F of ChapterX of the Income-tax Act, 1961. In terms of these provisions, income from an international transaction is to be computed having regard to Arm's Length Price. Arm's length Price is the price which is applied or proposed to be applied in a transaction between persons other than associated enterprise, in uncontrolled conditions. If it is found that any assessee has adopted a price that is not at Arm's Length, suitable adjustments are made in the Transfer Price by the Transfer Pricing Officer under ChapterX of the Income-tax Act, 1961. The Assessing Officer determines the tax liability of the assessee taking into account the adjustment so made by the Transfer Pricing Officer and collects the tax demand in accordance with the provisions of the Act.; During the first year of Transfer Pricing audit, a total number of 999 cases of transfer pricing were decided and a total Transfer Pricing adjustment of Rs.1212.96 crores was made.

(f)Does not arise in view of answer to para (d) & (e).